



Legislative Bulletin.....September 21, 2005

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H.R. 3827 — Immigration Relief for Hurricane Katrina Victims Act of 2005

H.R. 3827 — Immigration Relief for Hurricane Katrina Victims Act of 2005— as introduced (Sensenbrenner)

Order of Business: The bill is scheduled for consideration on Wednesday, September 21, 2005, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3827 provides relief and extensions on immigrant visas for aliens directly impacted by Hurricane Katrina in various instances, as described below by section:

Sec. 2. Special Immigrant Status.

- Allows the Secretary of Homeland Security to grant special immigrant status for aliens who were the beneficiaries of immigrant petitions or labor certification applications that were pending on the date of Hurricane Katrina's arrival (8/29/05) if the petition or application was nullified due to a specified hurricane disaster that had as a consequence the death or disability of the petitioner, applicant, or alien beneficiary, or the loss of employment due to the damage or destruction of the business of the petitioner or the applicant. It also provides similar benefits to the spouses and children that the alien had on the day of the hurricane and provides special immigrant status for the grandparents of orphans in cases in certain circumstances.

Sec. 3: Extension of Filing or Reentry Deadlines.

- Extends nonimmigrant status for aliens disabled, or whose spouse or parent died or was disabled, as a consequence of Hurricane Katrina.
- Waives the unlawful presence requirement until December 31, 2005 for individuals who were lawfully in the U.S. on the date of the hurricane, but unable to timely depart the U.S. as a direct consequence of the hurricane (and stipulates allowable circumstances).
- Provides extensions of immigrant visas through February 26, 2006 that might expire before the alien is able to enter the country. Similar relief is provided to paroled aliens unable to timely return to the United States.

Sec. 4. Humanitarian Relief for Certain Surviving Spouses and Children.

- Provides that the spouses and children of citizens who died as a consequence of the hurricane will continue to be considered “immediate relatives” for visa petition purposes.
- Also stipulates that certain relatives of lawful permanent residents who died in Hurricane Katrina will continue to be eligible for the preference classification if a visa petition was pending on their behalf.
- Stipulates that spouses and children of asylees and refugees who died as a consequence of the hurricane continue to be eligible for asylum or refugee as if such death had not occurred.

Sec. 5. Naturalization.

- Provides that individuals who resided in an area on August 29, 2005, affected by the Hurricane Katrina do not have to satisfy the naturalization requirement that applicants must maintain residence in a particular state.

Sec. 6. Foreign Students and Exchange Program Participants.

- Provides relief for nonimmigrant students and exchange program participants who were present lawfully on August 29, 2005, but were unable to maintain their status as a consequence of the hurricane (i.e. - inability to begin classes within 30 days of arrival or maintain a full course-load as required by law). It provides that that status will be considered to have been maintained during that period if, on February 1, 2006, they are enrolled in a course of study, or participating in an exchange visitor program sufficient to satisfy their previous terms and conditions.

Sec. 7. Notices of Change of Address.

- Extends the deadline to December 1, 2005 for notifying the Department of Homeland Security regarding a change of address (currently required within 10 days of a move) for aliens who moved during the period between August 29, 2005 and November 15, 2005.

Sec 8. Temporary Administrative Relief.

- Allows the Secretary of Homeland Security to provide “temporary administrative relief for humanitarian purposes, or to ensure family unity,” to aliens who were lawfully present on August 29, 2005; who on that date were the spouse, parent, or child of an individual who has died or was disabled as a consequence of the hurricane; and who are not otherwise entitled to relief under any other provisions of this Act.

Sec 9. Employment Verification During Effectiveness of Major Disaster Declaration.

- Allows the Secretary of Homeland Security to postpone employment eligibility requirements for employers for a 90-day period when the President has declared a major disaster. Employers would be required to make the necessary attestations based on documents by the employee at the end of the 90-day period.

Sec. 10. Replacement of Documents Evidencing Identity and Employment Authorization for Victims of Hurricane Katrina.

- Allows the Secretary of Homeland Security to provide immediate assistance for replacing documents issued by the Secretary that were lost, stolen, or destroyed due to the

hurricane. The Secretary may provide a temporary substitute document when replacement of a document is not feasible.

Sec. 11. Age-Out Protections.

- Provides discretionary age-out protection (a waiver to those who have reached an age outside of the specified application guidelines) for any application or benefit under the immigration laws in cases where the failure to meet the age requirement was a specific consequence of the hurricane.

Sec. 12. Evidence of Death, Disability, or Loss of Employment.

- Authorizes the Secretary of Homeland Security to establish standards of evidence for determining death, disability, or loss of employment for purposes of the relief provided in this bill.

Sec. 13. Waiver of Regulations.

- Directs the Secretary of Homeland Security to “carry out the provisions of this bill as expeditiously as possible” and also provides that the Secretary is not required to promulgate regulations prior to implementing this Act.

Committee Action: H.R. 3827 was introduced on September 20, 2005 and was referred to the Committee on the Judiciary, which took no official action.

Cost to Taxpayers: A CBO score of H.R. 3827 is unavailable, but the bill does not authorize new expenditures.

Does the Bill Expand the Size and Scope of the Federal Government?: As stated above, it expands the authority of the federal government to waive or extend certain immigration law provisions when individuals are directly impacted by Hurricane Katrina.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.” *[emphasis added]*

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